

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FILED

MAR 27 2024

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 DONNOVAN MALLEN,)
)
 Defendant,)

4:24CR148 MTS/SPM

MOTION FOR PRE-TRIAL DETENTION AND HEARING

Comes now the United States of America, by and through its attorneys, Sayler A. Fleming, United States Attorney for the Eastern District of Missouri, and J. Christian Goeke, Assistant United States Attorney for said District, and moves the Court to order defendant detained pending trial, and further requests that a detention hearing be held three (3) days from the date of defendant's initial appearance before the United States Magistrate pursuant to Title 18, United States Code, Section 3141, *et seq.*

As and for its grounds, the Government states as follows:

1. Defendant is charged with illegally eluding examination or inspection by immigration officers in violation of 8 U.S.C. § 1325, and unlawful possession of a firearm by an illegal alien, in violation of 18 U.S.C. § 922(g).

2. Pursuant to Title 18, United States Code, Section 3142(g) the court shall consider the following factors in determining whether there are conditions of release that will reasonably assure the appearance of the defendant as required and the safety of any other person and the community:

- a. the weight of the evidence against defendant;
- b. defendant's history and characteristics including the defendant's character,

physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings;

- c. the nature and seriousness of the danger to any person or the community that would be posed by defendant's release warrant defendant's detention pending trial.

3. The weight of the evidence against the defendant is substantial. According to St. Charles Police Department complaint number 24-1414, on February 26, 2024, officers with the St. Charles Police Department were dispatched to 1501 Beale Street, located in St. Charles County within the Eastern District of Missouri, for a shots fired call where they located Defendant's Dodge Charger with a shattered rear window. Officers made contact with Defendant. When asked for identification, Defendant provided a United States of America Permanent Resident card and a Social Security card that were fraudulent. Defendant initially denied any involvement in the shots fired incident. After further investigation, officers confronted Defendant with additional information and Defendant admitted that while traveling to work a vehicle was following him and fired four shots at him after which Defendant fired one round from a firearm into the air. Defendant confirmed that he had a firearm in his vehicle which was located under the front passenger seat. During a search of Defendant 's vehicle, officers located under the front passenger seat a Glock Model 20 10mm a semi-automatic pistol loaded with ten rounds of hollow-point ammunition in the magazine and one in the chamber.

4. Defendant was arrested for Unlawful Use of a Weapon-Subsection 9- Shoot At/From Motor Vehicle at Person, Motor Vehicle; Armed Criminal Action and Forgery and was conveyed to the St. Charles Police Station where he was advised of his *Miranda* rights and interviewed. Defendant admitted that he had possessed the firearm and fired a shot from his

vehicle and that he had purchased the firearm from an acquaintance for \$750 for protection. Defendant admitted that he had purchased the fraudulent Permanent Resident card and a Social Security card for \$150 and used the cards to obtain employment.

5. Further investigation revealed that Defendant is not a citizen or national of the United States. Based on available information in Department of Homeland Security databases, it appears Defendant is a citizen and native of Mexico who claims to have last entered the United States on an unknown date at an unknown place. Defendant does not have any valid immigration documents in his possession to enter, pass through or remain lawfully in the United States and makes no claims to Legal Permanent Resident or United States Citizen status. No immigration history could be found for Defendant.

6. Not only is the evidence in this case substantial, but it represents that Defendant is both a flight risk and danger to the community. Defendant has substantial incentive to flee prosecution, as his prosecution will also include his eventual deportation. Additionally, the circumstances of Defendant's acquiring the aforementioned firearm, as well as his use of that firearm, represents an undeniable danger to the community, and no condition or combination of conditions would alleviate these dangers.

WHEREFORE, there are no conditions or combination of conditions that will reasonably assure defendant's appearance as required and the safety of any other person and the community and the Government requests this Court to order defendant detained prior to trial, and further to order a detention hearing three (3) days from the date of defendant's initial appearance.

Respectfully submitted,

SAYLER A. FLEMING
United States Attorney

/s/ J. Christian Goeke
J. CHRISTIAN GOEKE, #39462(MO)
Assistant United States Attorney